

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RICHARD DORMAN §
VS. § CIVIL ACTION NO. 1:07cv77
UNITED STATES OF AMERICA §

MEMORANDUM ORDER PARTIALLY ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Richard Dorman, an inmate at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought the above-styled action.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

On September 21, 2007, plaintiff filed a motion to hold this case in abeyance or to dismiss the complaint without prejudice.¹ Pursuant to Federal Rule of Civil Procedure 41(a), plaintiff is entitled to voluntarily dismiss his action prior to the service of an answer or of a motion for summary judgment, whichever first occurs. As of this date, the defendants have not been served. Accordingly, plaintiff's motion to dismiss should be granted.

¹ The motion to dismiss was not entered on the docket until after the report had been filed.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommended dismissal without prejudice. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

So **ORDERED** and **SIGNED** this **31** day of **October, 2007**.



Ron Clark, United States District Judge